

# Exhibit C

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

CASE NO. 1:19-cv-1445-LGS

BILL WISSER,  
Plaintiff,  
vs.  
VOX MEDIA,  
Defendant.

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One Biscayne Tower  
2 South Biscayne Boulevard  
Suite 2250  
Miami, Florida  
Wednesday, August 21, 2019  
11:48 a.m. to 12:40 p.m.

DEPOSITION OF OLEE FOWLER

Taken on behalf of the Plaintiff before Carol Hill  
Weng, FPR, RMR, CRR, CMRS, CPE, CRI, a Notary Public in  
and for the State of Florida at Large, pursuant to  
Plaintiff's Notice of Taking Deposition in the above  
cause.

1 APPEARANCES:

2 On behalf of Plaintiff:

JAMES FREEMAN, ESQ. (via telephone)

3 Liebowitz Law Firm, PLLC

11 Sunrise Plaza, Suite 305

4 Valley Stream, New York, 11580

JF@LiebowitzLawFirm.com

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On behalf of Defendant:

6 RACHEL F. STROM, ESQ.

Davis Wright Tremaine LLP

7 1251 Avenue of the Americas

21st Floor

8 New York, New York 10020

rachelstrom@dwt.com

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1 A. Yes.

2 Q. Do you believe that you saw the  
3 article before preparation for today's  
4 deposition?

5 A. I don't remember.

6 Q. Let's mark as Exhibit F the number --  
7 I'm sorry, the document Bates stamped number  
8 Vox32 through Vox48. It's an April 16, 2016  
9 e-mail.

10 (E-mail, 4/16/2016 was marked as  
11 Exhibit F for identification.)

12 A. It's in front of me.

13 Q. And this is an e-mail from JennyLee  
14 Molina to you dated April 16, 2016?

15 A. Yes.

16 Q. And you recognize this document?

17 A. Yes.

18 Q. What is this document or what is she  
19 asking here?

20 A. She is sending me information on the  
21 brunch at Ariete and wanting to see if I would  
22 like to come try it.

23 Q. Now, if you flip through the following  
24 pages, do you see there that there is  
25 photographs of cuisine?

1 A. Yes.

2 Q. Is it your understanding that these  
3 photographs are of cuisine that's offered at the  
4 Ariete restaurant?

5 A. Yes.

6 Q. Do you recall whether you ever  
7 published any of these images?

8 A. I don't remember.

9 Q. Was it your understanding that you had  
10 had the authority to publish one of these images  
11 because she sent them to you?

12 A. Yes, that would be my understanding.

13 Q. That would be your understanding.

14 Typically, if a restaurant owner sends  
15 you a press release which contains photographs,  
16 is it your understanding that you, working on  
17 behalf of Vox, have permission to post those  
18 photographs to the Eater website?

19 A. That is my general understanding.

20 Q. Do you recall whether you attended  
21 this brunch?

22 A. I don't remember.

23 Q. Let's mark next Exhibit G.

24 MR. FREEMAN: Rachel, this is the  
25 Facebook post. It's not Bates stamped but

1                   So you're the author of this article,  
2 correct?

3           A.       Yes.

4           Q.       And you're the author of the text of  
5 the article, correct?

6           A.       Yes.

7           Q.       And you'll see here on the document  
8 marked BW\_024 there's a photograph of roasted  
9 oysters.

10                   Do you see that?

11          A.       Yes.

12          Q.       Were you the individual responsible  
13 for obtaining this photograph?

14          A.       I don't remember.

15          Q.       Would you have -- would there be  
16 anyone else who contributed to this article,  
17 besides you?

18          A.       Possibly. I have other contributors  
19 for the site.

20          Q.       So you're saying that it's possible  
21 that you drafted the text and then someone else  
22 at Vox inserted the photographs?

23          A.       I'm saying there's a possibility. I'm  
24 not saying that's what happened.

25          Q.       Do you have any specific recollection

1 identification of individual's knowledge of  
2 this article.

3 MS. STROM: I'll just state for the  
4 record that she said it's a possibility that  
5 someone else did it, not that that's what  
6 happened. And so I'll object to the  
7 insinuation that there's a gap, but yes, we  
8 can follow up after.

9 MR. FREEMAN: Okay.

10 Q. So with this particular photograph  
11 here on the page marked BW\_024, the photograph  
12 of the oysters.

13 Do you see that?

14 A. Yes.

15 Q. You're saying that you have no  
16 recollection of where this photograph came from?

17 A. I have no recollection of where the  
18 photo came from.

19 Q. And -- but you're also saying it's  
20 possible that you did publish this photograph?  
21 You just don't remember?

22 A. I don't remember.

23 Q. Is it typical for you to publish  
24 photographs along with articles that you write  
25 the text for?

1 A. Yes. That is typical.

2 Q. That's done but you're saying not  
3 always?

4 A. Not always.

5 Q. Do you see underneath the picture of  
6 the oysters it says "Ariete Facebook" -- I'm  
7 sorry, "Ariete/Facebook"?

8 A. Yes.

9 Q. What is your understanding of that  
10 credit?

11 A. My understanding of that credit is  
12 that the image came from Facebook.

13 Q. Okay. So let's just go back to  
14 Exhibit G, that's the Facebook exhibit.

15 A. Yes.

16 Q. Is it your understanding, looking at  
17 this, that the photograph that's published to  
18 the Eater.com website was obtained from  
19 Exhibit G, which is the Facebook.com website?

20 A. I don't know because I can't click  
21 that link.

22 Q. Right.

23 But based on your experience, given  
24 that the photograph published in Eater.com says  
25 "Ariete/Facebook," is it your understanding that



1 this photograph was obtained from Ariete's  
2 Facebook page?

3 A. Yes.

4 Q. Okay. And do you know whether this  
5 photograph on the Eater.com website, I'm  
6 thinking of the photograph with the oysters, do  
7 you know whether that was distributed to you by  
8 the restaurant?

9 A. I don't remember.

10 Q. Do you have any e-mails from  
11 Ms. Molina where she sent you this particular  
12 photograph of the oysters?

13 A. I don't have a specific e-mail with  
14 this image in it.

15 Q. And did you ever speak to Ms. Molina  
16 by telephone?

17 A. Ever in my life?

18 Q. From the period 2016 to 2017.

19 A. Have I ever spoken -- yeah. I've  
20 spoken to her since 2016.

21 Q. Okay. Did you obtain permission from  
22 Ms. Molina to use this photograph of the oysters  
23 on Eater.com?

24 A. I don't remember.

25 Q. Had you obtained permission to publish

1 this photograph to Eater.com website, would you  
2 have asked for that permission via e-mail?

3 A. Not necessarily.

4 Q. You're saying that you -- you're  
5 saying that it's plausible you would have phoned  
6 Ms. Molina and asked whether or not you had  
7 permission to republish this photograph?

8 A. That's plausible, yes.

9 Q. But you're not aware of any  
10 documentation or any e-mail where Ms. Molina  
11 gave you permission to republish the photograph  
12 of the oyster to Eater.com?

13 A. Not to my knowledge.

14 Q. And is it your recollection that this  
15 photograph of the oysters on the Eater.com  
16 website, is it your recollection that this  
17 photograph was distributed to you via a press  
18 release?

19 A. I don't remember.

20 Q. You don't remember, okay.

21 Let's mark as Exhibit I the document  
22 stamped Vox52 to -55.

23 MS. STROM: We only have -52 to -54.

24 MR. FREEMAN: That's fine. -55 is  
25 just a signature page. That's fine.

CERTIFICATE OF OATH OF WITNESS

STATE OF FLORIDA )  
 ) SS.  
COUNTY OF MIAMI-DADE )

I, Carol Hill Weng, FPR, RMR, CRR, CMRS, CRI, CPE,  
Notary Public in and for the State of Florida at Large,  
certify that the witness, Olee Fowler, personally  
appeared before me on August 21, 2019, and was duly  
sworn by me.

WITNESS my hand and official seal this August 30,  
2019.



Carol Hill Weng, FPR, RMR, CRR, CMRS,  
CRI, CPE

Notary Public, State of Florida at Large

Notary No.: FF 958116

My Commission Expires: March 4, 2020

REPORTER'S DEPOSITION CERTIFICATE

I, Carol Hill Weng, FPR, RMR, CRR, CMRS, CPE, CRI, certify that I was authorized to and did stenographically report the deposition of Olee Fowler, the witness herein on August 21, 2019; that a review of the transcript was requested; that the foregoing pages are a true and complete record of my stenographic notes of the deposition of said witness; and that this computer-assisted transcript was prepared under my supervision.

I further certify that I am not a relative, employee, attorney or counsel of any of the parties, nor am I a relative or employee of any of the parties' attorney or counsel connected with the action.

DATED this August 30, 2019.



Carol Hill Weng, FPR, RMR, CRR  
CMRS, CPE, CRI